

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Financial Services

AGENDA DATE: December 11, 2012

CONTACT PERSON NAME AND PHONE NUMBER: Carmen Arrieta-Candelaria, CFO, (915) 541-4011

DISTRICT(S) AFFECTED: ALL

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

An Ordinance amending Title 3 (Revenue and Finance) Chapter 3.12 (Hotel Room Tax) of the El Paso City Code by amending Section 3.12.010 (Definitions); Section 3.12.050 (Rules and Regulations – Record Inspection Authority) and Section 3.12.070 (Violation – Penalty) and adding new Section 3.12.021 (Additional Tax Imposed for Approved Venue Project – Rate); Section 3.12.031 (Collection of Additional Tax – Approved Venue Project); Section 3.12.041 (Additional Tax – Reports and Remittances); Section 3.12.62 (Use of Additional Tax Proceeds – Venue Projects Fund) for the purpose of effectuating the Baseball Stadium Venue Project approved by the voters on November 6, 2012. (All Districts) [Carmen Arrieta-Candelaria, Financial Services Department (915) 541-4011]

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

This ordinance amends Title 3.12, Hotel Room Tax, of the El Paso City Code to implement the voter approved increase in the City's Hotel Occupancy Tax (HOT) on November 6, 2012. El Paso voters approved ballot proposition # 3 which authorized the designation of the City's downtown ballpark project as a sports venue project and further authorized using a 2% increase in the HOT to fund the construction of a baseball stadium to be located in downtown El Paso.

The ordinance amends various sections of Title 3.12 in order to impose the additional 2% and sets out certain requirements related to collection, reporting and use of the additional tax.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

At their regular meeting on Tuesday, August 14, 2012 (Item 13.B), City Council approved an Ordinance ordering a special election to be held in the City of El Paso, Texas on November 6, 2012 for a venue project and imposing hotel occupancy tax, making provisions for the conduct of the election, and resolving other matters incident and related to such election.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Carmen Arrieta-Candelaria
(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

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ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 3 (REVENUE AND FINANCE) CHAPTER 3.12 (HOTEL ROOM TAX) OF THE EL PASO CITY CODE BY AMENDING SECTION 3.12.010 (DEFINITIONS); SECTION 3.12.050 (RULES AND REGULATIONS – RECORD INSPECTION AUTHORITY) AND SECTION 3.12.070 (VIOLATION – PENALTY) AND ADDING NEW SECTION 3.12.021 (ADDITIONAL TAX IMPOSED FOR APPROVED VENUE PROJECT - RATE); SECTION 3.12.031 COLLECTION OF ADDITIONAL TAX -- APPROVED VENUE PROJECT); SECTION 3.12.041 (ADDITIONAL TAX – REPORTS AND REMITTANCES); SECTION 3.12.62 (USE OF ADDITIONAL TAX PROCEEDS – VENUE PROJECT FUND) FOR THE PURPOSE OF EFFECTUATING THE BASEBALL STADIUM VENUE PROJECT APPROVED BY THE VOTERS ON NOVEMBER 6, 2012

WHEREAS, on August 14, 2012, the City Council of the City of El Paso approved an ordinance to hold an election on November 6, 2012, in the City, for the purpose of submitting to the voters of the city the VENUE PROJECT AND HOTEL OCCUPANCY TAX PROPOSITION, authorizing the City of El Paso to provide for the planning, acquisition, establishment, development, construction and financing of a sports and community venue project within the city of the type described and defined in Section 334.001(4)(A) of and permitted by Chapter 334, Local Government Code, as amended (the “Act”) and described in summary form as a multipurpose coliseum, stadium or other type of arena or facility that is planned for use for one or more professional or amateur sports events, including minor league baseball games, and related infrastructure as defined in the Act, and to impose a tax on the occupancy of a room in hotel located within the city, at a maximum rate of two percent (2%) of the price paid for such room (“the Proposition”).

WHEREAS, an election was held in the City of El Paso, Texas on November 6, 2012, for the purpose of submitting the Proposition with respect to sports and community venue project to the resident electors of the city; and

WHEREAS, on November 6, 2012, a majority of the resident qualified electors voting at said election voted in favor of the Proposition; and

WHEREAS, the city desires to amend the city code to effectuate the voter approval of the hotel occupancy tax for the venue project.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 3, Revenue and Finance, Chapter 3.12, Hotel Room Tax, Section 3.12.010, Definitions, is amended in its entirety to read as follows:

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3.12.010 - Definitions

As used in this chapter, and in accord with Chapter 351 of the Texas Tax Code and Chapter 334 of the Texas Local Government Code, the following terms shall have the following meanings:

- A. "Additional Tax" means the tax imposed for the purpose of financing a portion of the costs of the Approved Venue Project.
- B. "Approved Venue Project" means a multipurpose coliseum, stadium or other type of arena or facility that is planned for use for one or more professional or amateur sports events, including minor league baseball games, and related infrastructure project that was approved by a majority of the voters voting at the election held in the city on November 6, 2012, in accordance the Chapter 334, Local Government Code, as amended.
- C. "City comptroller" means the comptroller of the City of El Paso.
- D. "Consideration" means the price of a room in a hotel, but does not include the cost of food served by the hotel or the cost of personal services performed by the hotel except those services related to cleaning and readying the room for use or possession.
- E. "Hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house or bed and breakfast, but does not include a hospital, sanitarium, nursing home or a dormitory or other housing facility owned or leased and operated by an institution of higher learning as those terms are defined in Section 61.003, Texas Education Code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an education program or activity at the institution.
- F. "Occupancy" means the use or possession or the right to use or possess a room or space that is ordinarily used for sleeping.
- G. "Occupant" means any person who under a lease, concession, permit, right of access, license, contract or agreement uses or possesses a hotel room or space, but shall not include a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for the period.
- H. "Person" means any individual, company, corporation or association.
- I. "Venue Project Fund" means the fund entitled "Ballpark Venue Project Fund" created pursuant to the city resolution approved on December 18, 2012.

SECTION 2. That Title 3, Revenue and Finance, Chapter 3.12, Hotel Room Tax, is amended to add a new Section 3.12.021, Additional Tax Imposed for Approved Venue Project - Rate, to read as follows:

3.12.021 – Additional Tax Imposed for Approved Venue Project — Rate.

In addition to the tax levied in Section 3.12.020, there is levied an additional tax upon the cost of occupancy of any room or space in a hotel, when such cost is at the rate of two dollars or more per day, such additional tax to be equal to two percent (2%) of the consideration paid by the occupant of such room of such hotel. The additional tax imposed under this section must be collected on every occupancy occurring on or after January 1, 2013 and must continue to be collected for so long as any bonds or other obligations that are issued for the purpose of financing a portion of the costs of the approved venue project, and any bonds refunding or refinancing those bonds or other obligations, are outstanding and unpaid.

SECTION 3. That Title 3, Revenue and Finance, Chapter 3.12, Hotel Room Tax, is amended to add a new Section 3.12.031, Collection of Additional Tax -- Approved Venue Project, to read as follows :

3.12.031 - Collection of Additional Tax -- Approved Venue Project.

- A. The additional tax levied in this chapter is against the person paying for the occupancy of the room. Every person owning, operating, managing or controlling any hotel that is required to collect a tax under Section 3.12.030 shall collect the additional tax for the city.
- B. Each bill or other receipt for hotel charge that is subject to the additional tax imposed under this Chapter must conspicuously include the following statement:

“The City of El Paso requires an additional tax of two percent be imposed on each hotel charge for the purpose of financing a venue project.”

SECTION 4. That Title 3, Revenue and Finance, Chapter 3.12, Hotel Room Tax, is amended to add a new Section 3.12.041, Additional Tax – Reports and Remittances, to read as follows:

3.12.041 – Additional Tax - Reports and remittances.

Every person required to collect a tax imposed by this chapter shall include in the quarterly reports required under Section 3.12.040, the following additional information:

- A. the amount of the additional tax collected on such occupancies; and

B. any other information which the city comptroller may reasonably require.

Such person shall, at the time of filing such report, pay over to the city comptroller the amount of additional taxes required to be collected for room occupancies during the preceding quarter.

SECTION 5. That Title 3, Revenue and Finance, Chapter 3.12, Hotel Room Tax, is amended to add at the end of Section 3.12.050, Rules and Regulations – Record inspection authority, a new subsection to read as follows:

D. All of the provisions of this Section 3.12.050 and any rules and regulations made hereunder shall apply to the additional tax.

SECTION 6. That Title 3, Revenue and Finance, Chapter 3.12, Hotel Room Tax, is amended to add a new Section 3.12.061, Use of Additional Tax Proceeds – Venue Project Fund, to read as follows:

3.12.061 - Use of Additional Tax Proceeds – Venue Project Fund

The proceeds of the additional tax levied in this chapter shall be allocated to the following purposes:

- A. To reimburse or pay the costs of planning, acquiring, establishing, developing, constructing, and renovating the approved venue project;
- B. To pay the principal, interest, reserves and other costs relating to bonds or other obligations issued to finance the approved venue project, or bonds issued to refund the obligations; or
- C. To pay the costs of operating or maintaining the approved venue project.

The collection of the additional tax shall be discontinued when the bonds or other obligations described in this chapter for the approved venue project are paid in full, unless the additional tax is continued in accordance with the law.

SECTION 7. That Title 3, Revenue and Finance, Chapter 3.12, Hotel Room Tax, is amended to add at the end of Section 3.12.070, Violation - Penalty, a new subsection to read as follows:

D. All of the provisions of this Section 3.12.070 shall apply to the additional tax.

SECTION 8. Except as herein amended, Title 3, Revenue and Finance, Chapter 3.12, Hotel Room Tax, of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2012.

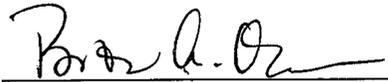
ATTEST:

John F. Cook
Mayor

Richarda D. Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Bertha A. Ontiveros
Senior Assistant City Attorney



Carmen Arrieta-Candelaria
Chief Financial Officer

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